

CHAPTER 75-03-17
RESIDENTIAL TREATMENT CENTERS FOR CHILDREN

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75-03-17-01. Definitions.

1. "Applicant" means the entity requesting licensure as a residential treatment center for children under this chapter.
2. "Center" means a residential treatment center for children.
3. "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery provided by qualified mental health professionals.
4. "Department" means the department of human services.
5. "Diagnostic assessment" means a written summary of the history, diagnosis, and individual treatment needs of a mentally ill person using diagnostic, interview, and other relevant assessment techniques provided by a mental health professional.
6. "Individual treatment plan" means a written plan of intervention, treatment, and services for a mentally ill person that is developed under the clinical supervision of a mental health professional on the basis of a diagnostic assessment.

7. "Mental health professional" means:
- a. A psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota board of psychology examiners;
 - b. A social worker with a master's degree in social work from an accredited program;
 - c. A registered nurse with a master's degree in psychiatric and mental health nursing from an accredited program;
 - d. A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of a registered nurse, as defined by subdivision c, or an expert examiner;
 - e. A licensed addiction counselor; or
 - f. A licensed professional counselor with a master's degree in counseling from an accredited program who has either successfully completed the advanced training beyond a master's degree, as required by the national academy of mental health counselors, or a minimum of two years of clinical experience in a mental health agency or setting under the supervision of a psychiatrist or psychologist.
8. "Mentally ill person" means an individual with an organic, mental, or emotional disorder that substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. "Mentally ill person" does not include a mentally retarded person of significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior, although an individual who is mentally retarded may suffer from a mental illness. Chemical dependency does not constitute mental illness, although an individual suffering from that condition may be suffering from mental illness.
9. "Program plan" means a center's plan for delivering its services and providing treatment.
10. "Qualified mental health professional" means a licensed physician who is a psychiatrist, a licensed clinical psychologist who is qualified for listing on the national register of health service providers in psychology, a licensed certified social worker who is a board-certified diplomat in clinical social work, or a nurse who holds advanced licensure in psychiatric nursing.
11. "Residential treatment" means a twenty-four-hour a day program under the clinical supervision of a mental health professional, in a community

residential setting other than an acute care hospital, for the active treatment of mentally ill persons.

12. "Residential treatment center for children" means a facility or a distinct part of a facility that provides to children and adolescents, a total, twenty-four-hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment and an individualized treatment plan that meets the needs of the child and family. The services are available to children in need of and able to respond to active psychotherapeutic intervention and who cannot be effectively treated in their own family, in another home, or in a less restrictive setting.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-01, 25-03.2-03

75-03-17-02. Procedures for licensing.

1. **Application.** An application for license or for renewal as a center must be submitted to the department which shall determine the suitability of the applicant for licensure under this chapter. The application must contain any materials that the department may require, including:
 - a. An architectural plan;
 - b. A comprehensive description of the program plan which includes:
 - (1) A plan demonstrating compliance with this chapter;
 - (2) The treatment modalities offered including milieu therapy, family therapy, chemotherapy, and psychotherapy;
 - (3) Prohibited treatment modalities; and
 - (4) The services provided directly by the facility and those provided by other community resources including special education as required by law;
 - c. The funding base for building and operating the center including a projected twelve-month budget based on predictable funds and, for a new center, a statement of available funds or documentation of available credit sufficient to meet the operating costs for the first twelve months of operation; and
 - d. A copy of all policies required by this chapter.

2. **License renewal.** An application for license renewal must be submitted sixty days before the license expires and must describe any changes that have modified the physical plant, program plan, funding base, or professional competence since the granting or previous renewal of the license.
3. **Initial license.** An initial license is in effect for one year. When a license is renewed, it may be issued for two years, at the discretion of the department. The license must identify the number and age groupings of residents who may receive care, is valid only on the premises indicated, and is not transferable.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-02, 25-03.2-03, 25-03.2-05

75-03-17-03. Organization and administration.

1. **Governing body.** The applicant must have a governing body that is responsible for the operation, policies, program, and practice of the center. The governing body shall:
 - a. Define:
 - (1) The center's philosophy;
 - (2) The center's purpose;
 - (3) The center's function;
 - (4) The geographical area served by the center;
 - (5) The ages and types of residents accepted for care by the center; and
 - (6) The clinical disorders addressed by the center's program;
 - b. Ensure that all policies required by this chapter are in writing and on file at the center;
 - c. Develop a records retention policy consistent with state and federal law;
 - d. Assure that all vehicles transporting residents are:
 - (1) Subject to routine inspection and maintenance;
 - (2) Licensed by the state motor vehicle department;

- (3) Equipped with seatbelts for every passenger;
 - (4) Equipped with a first-aid kit and a fire extinguisher;
 - (5) Carrying no more individuals than the manufacturer's recommended maximum capacity;
 - (6) Disability accessible where appropriate; and
 - (7) Driven by an individual who holds a valid driver's license, of a class appropriate to the vehicle driven, issued by the driver's jurisdiction of residence; and
 - e. Obtain sufficient insurance, including:
 - (1) Liability insurance covering bodily injury, property damage, personal injury, professional liability; and
 - (2) Automobile or vehicle insurance covering property damage, comprehensive, collision, uninsured motorist, bodily injury, and no fault.
2. **Legal status.** The applicant shall provide to the department:
- a. A copy of the articles of incorporation, bylaws, partnership agreement, or articles of organization and any evidence of required legal registration of the entity;
 - b. A current list of partners or members of the governing body and any advisory board, including the address, phone number, principal occupation, and term of office of each listed person; and
 - c. A statement disclosing the owner of record of any building, facility, or major piece of equipment occupied or used by the applicant, the relationship of the owner to the applicant, the cost of such use, if any, to the applicant, and the identity of the entity responsible for the maintenance and upkeep of the property.
3. **Financial plan.** The applicant shall have a financing plan which includes a twelve-month budget, and which shows the center's financial ability to carry out its purposes and function. A new applicant shall have sufficient funds available for the first year of operation.
4. **Audits.** All financial accounts must be audited annually by a certified public accountant. The report must be made a part of the center's records and contain the accountant's opinion about the center's present and predicted financial solvency. The report must be submitted with an application for license renewal.

5. **Quality assurance.** The applicant shall have a quality assurance program that monitors and evaluates the quality and appropriateness of resident care, and provides a method for problem identification, corrective action, and outcome monitoring. The quality assurance program must include:
- a. A plan for resident and staff safety and protection;
 - b. A method to evaluate personnel performance and the utilization of personnel;
 - c. A system of credentialing, granting, and withholding staff privileges;
 - d. A method to review and update policies and procedures assuring the usefulness and appropriateness of policies and procedures;
 - e. A method to review the appropriateness of admissions, care provided, and staff utilization;
 - f. A plan for the review of individual treatment plans;
 - g. A plan for program evaluations that includes measurements of progress toward the centers' stated goals and objectives; and
 - h. A method to evaluate and monitor standards of resident care.
6. **Resident's case records.** The applicant shall maintain a confidential resident record for each resident which must be current and reviewed monthly. Each record must contain:
- a. An application for service;
 - b. A social history;
 - c. A medical treatment consent form signed by a person who may lawfully act on behalf of the resident and any consent for the use of psychotropic medications as required under subdivision d of subsection 10 of section 75-03-17-07;
 - d. The name, address, and phone number of individuals to be contacted in an emergency;
 - e. Reports on medical examinations, including immunizations, any medications received, allergies, dental examinations, and psychological and psychiatric examinations;

- f. An explanation of custody and legal responsibility for the resident and relevant court documents including custody or guardianship papers; and
- 9. A written agreement between a person who may lawfully act on behalf of the resident and the center and a record that the person who acted on behalf of the resident received a copy. The agreement must include:
 - (1) A statement as to who has financial responsibility;
 - (2) How payments are to be made to cover the cost of care;
 - (3) Which items are covered by the normal or regular center charges for care;
 - (4) Medical arrangements including the cost of medical care;
 - (5) Visiting arrangements and expectations;
 - (6) Arrangements for clothing and allowances;
 - (7) Arrangements for vacations;
 - (8) Regulations about gifts permitted;
 - (9) Arrangements for participation by the person who acted on behalf of the resident through regularly scheduled interviews with designated staff;
 - (10) The center's policy on personal monetary allowance to be provided the resident at the center; and
 - (11) Records of special treatment orders.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-04. Admissions.

- 1. The center may admit only those prospective residents who are found eligible according to the center's admission policies. Every center shall have specific admission policies that describe which professional staff have admission authority and describe the membership of the center's admission committee or committees. Admission committee membership must include a psychiatrist.
- 2. a. Admission decisions must be based upon:

- (1) A social history which includes presenting problems, family background, developmental history, educational history, and employment;
 - (2) A medical history which includes current status, any relevant findings of previous physical or psychiatric evaluations, and a list of the prospective resident's current medications and allergies; and
 - (3) Prior psychological and addiction evaluations.
- b. The history and prior evaluations must be obtained before admission, except when emergency care must be given, and then the information must be obtained within three working days after admission.
3. The center shall grant or deny admission within fourteen days of receipt of a completed application.
4. If admission is denied, the center shall indicate the reason in writing.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-06

75-03-17-05. Diagnosis and treatment while at the center.

1. **Duties of the center.** The center shall:
 - a. Keep the resident in contact with the resident's family and relatives if possible;
 - b. Involve the parents in the treatment plan if possible;
 - c. Provide or arrange for family therapy when necessary;
 - d. Provide conferences involving the center, the person who may lawfully act on behalf of the resident, the referring agency, and when appropriate, the resident, to review the case status and progress on a monthly basis; and
 - e. Provide a progress report to the referring agency, and the person who acted on the resident's behalf every three months.
2. **Specialists.** The services of specialists in the fields of medicine, psychiatry, nursing, psychology, and education must be used as needed. Each center shall provide a minimum of one-half hour per week per bed of psychiatric time and twenty hours per week of nursing time.

3. Individual treatment plan.

- a. The center shall develop and implement an individual treatment plan, and provide clinical supervision for the individual treatment plan. To the extent possible, the resident, and the person who acted on the resident's behalf, must be involved in all phases of developing and implementing the individual treatment plan.
- b. The plan must be:
 - (1) Based on a determination of a diagnosis using the first three axes of the multiaxial classification of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), which must be completed within five days of admission. In cases where a diagnosis by a mental health professional based on a DSM-IV classification has been completed within thirty days preceding admission, only updating is necessary;
 - (2) Developed within five business days of admission; and
 - (3) Reviewed monthly and amended, as deemed necessary, by an interdisciplinary team including one qualified mental health professional.
- c. The plan must identify:
 - (1) Treatment goals to address the problems of the resident and family;
 - (2) Timeframes for achieving the goals;
 - (3) Indicators of goal achievement;
 - (4) The individuals responsible for coordinating and implementing resident and family treatment goals;
 - (5) Staff techniques for achieving the resident's treatment goals;
 - (6) The projected length of stay and next placement; and
 - (7) When referrals are made to other service providers, and the reasons referrals are made.

4. Work experience.

- a. If a center has a work program, it shall:
 - (1) Provide work experience that is appropriate to the age and abilities of the resident;

- (2) Differentiate between the chores that residents are expected to perform as their share in the process of living together, specific work assignments available to residents as a means of earning money, and jobs performed in or out of the center to gain vocational training; and
 - (3) Give residents some choice in their chores and offer change from routine duties to provide a variety of experiences.
 - b. Work may not interfere with the resident's time for school study periods, play, sleep, normal community contacts, or visits with the resident's family.
5. **Solicitation of funds.** A center may not use a resident for advertising, soliciting funds, or in any other way that may cause harm or embarrassment to a resident or the resident's family. A center may not make public or otherwise disclose by electronic, print, or other media for fundraising, publicity, or illustrative purposes, any image or identifying information concerning any resident or member of a resident's immediate family, without first securing the resident's written consent and the written consent of the person who may lawfully act on behalf of the resident. The written consent must apply to an event that occurs no later than ninety days from the date the consent was signed and must specifically identify the image or information that may be disclosed by reference to dates, locations, and other event-specific information. Consent documents that do not identify a specific event are invalid to confer consent for fundraising, publicity, or illustrative purposes. The duration of an event identified in a consent document may not exceed fourteen days.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-06. Special treatment procedures.

- 1. **Timeout.** Timeout procedures must be supervised by staff, and appropriate entries must be made in the resident's file.
- 2. **Safety holds.** A center shall apply the following procedures in using safety holds:
 - a. A resident may be held only when:
 - (1) Withholding this intervention would be contrary to the best interest of the resident; and
 - (2) Less restrictive alternatives have failed;

- b. All safety holds must be applied by staff trained in the use of safety holds;
 - c. Staff shall:
 - (1) Make entries in the resident's file as to the date, time, staff involved, reasons for the use of, and the extent of safety holds;
 - (2) Notify the individual who may lawfully act on behalf of the resident; and
 - (3) Educate the resident, providing instructions on alternative behaviors that would have allowed the staff to avoid the use of safety holds with the resident.
3. **Seclusion or locked timeout.** If seclusion or locked timeout is indicated, the center shall ensure that:
- a. The proximity of the staff allows for visual and auditory contact with the resident at all times;
 - b. All objects are removed from the resident's presence;
 - c. All fixtures within the room are tamperproof, with switches located outside the room;
 - d. Smoke-monitoring or fire-monitoring devices are an inherent part of the seclusion room;
 - e. Mattresses are security mattresses of fire-resistant material;
 - f. The room is properly ventilated;
 - g. Applicable entries are made in the resident's file;
 - h. A resident under special treatment orders is provided the same diet that other residents in the center are receiving;
 - i. No resident remains in isolation for more than:
 - (1) Four hours in a twenty-four-hour period;
 - (2) One-half hour without supervisory approval; or
 - (3) Two hours without physician approval; and

- j. Physicians review the use of procedures.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 50-11-03, 50-11-03.2

75-03-17-07. Medical care.

1. **Medical examination.** Each resident shall have a medical examination within thirty days prior to admission or within seventy-two hours of admission.
2. **Immunizations.** A resident shall have current immunizations as required by North Dakota Century Code section 23-07-17.1.
3. **Medical care arrangements.** A center shall make arrangements with a physician and a psychiatrist for medical and psychiatric care of residents.
4. **Annual medical examination.** Every resident shall have a medical examination annually.
5. **Staff instruction.** The center shall inform staff members as to what medical care, including first aid, may be given by staff without specific orders from a physician. Staff shall be instructed as to how to obtain further medical care and how to handle emergency cases.
 - a. At least one staff member on duty shall have satisfactorily completed current first aid, crisis prevention intervention, universal infection control precautions, and cardiopulmonary resuscitation training and have on file at the center a certificate of satisfactory completion.
 - b. Each staff member shall be able to recognize the common symptoms of illnesses of residents and to note any marked physical defects of residents. A sterile clinical thermometer and a complete first-aid kit must be available.
6. **Hospital admission.** Arrangements must be made with a hospital for the admission of residents from the center in the event of serious illness or an emergency.
7. **Medical records.** A resident's medical records must include:
 - a. Current medical, psychological, or psychiatric records;
 - b. A record of the resident's immunizations;

- c. The consent for medical care by a person with lawful authority to act on behalf of the resident;
 - d. Records of the annual medical examination; and
 - e. A record of the medical care given at the center, including:
 - (1) Hospitalization records;
 - (2) Prescriptions used with the quantity directions, physician's name, date of issue, and name of the pharmacy indicated; and
 - (3) Significant illnesses or accidents.
8. **Hospitalization or death reports.** Any accident or illness requiring hospitalization must be reported immediately to an individual who may lawfully act on behalf of the resident. Deaths must immediately be reported to the department, an individual who may lawfully act on behalf of the resident, a law enforcement agency, and the county coroner.
9. **Prescription labels.** Prescribed drugs and medicines must be obtained on an individual prescription basis with the following labeling:
- a. The name of the pharmacy;
 - b. The resident's name;
 - c. The prescription number;
 - d. The prescribing practitioner;
 - e. The directions for use;
 - f. The date of original issue or renewal;
 - g. The name of the drug;
 - h. The potency of the drug;
 - i. The quantity of the drug; and
 - j. The expiration date, when applicable.
10. **Administration of medications.**
- a. Medications must be administered by a designated staff person in accordance with medical instructions. All medications must

be stored in a locked cabinet, with the keys for the cabinet kept under the supervision of the designated staff person assigned to administer the medications. The medication cabinet must be equipped with separate cubicles, plainly labeled with the resident's name.

- b. Medications belonging to the client must be returned to the person who may lawfully act on behalf of the resident upon discharge, or must be destroyed in the presence of a witness by the designated person in charge of medication storage by flushing the medications into the sewer system and removing and destroying the labels from the container.
- c. The center may possess a limited quantity of nonprescription medications and administer them under the supervision of designated staff.
- d. The center shall have policies governing the use of psychotropic medications. A person with lawful authority to act on behalf of a resident who receives psychotropic medication must be informed of benefits, risks, side effects, and potential effects of medications. Written consent for use of the medication must be obtained from that person and filed in the resident's record.
- e. A resident's psychotropic medication regime must be reviewed by the attending psychiatrist every seven days for the first thirty days and every thirty days thereafter.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-08. Dental care. Each resident shall have an annual dental examination. If a resident has not had an examination in the twelve months prior to admission, an examination must occur within ninety days of admission.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-09. General health.

- 1. **Sleep.** Each resident shall have enough sleep for the resident's age at regular and reasonable hours, and under conditions conducive to rest. While residents are asleep, at least one staff member shall be within hearing distance.
- 2. **Personal hygiene.** Residents shall be encouraged and helped to keep themselves clean.

3. **Bathing facilities.** Bathing and toilet facilities must be properly maintained and kept clean.
4. **Personal articles.** Each resident shall have a toothbrush, comb, an adequate supply of towels and washcloths, and personal toilet articles.
5. **Daily diet.** Menus must provide a varied diet that meets a resident's daily nutritional requirements.
6. **Clothing.** Each resident shall have clothing for the resident's exclusive use. The clothing must be comfortable and appropriate for current weather conditions.
7. **Play.** The center shall provide safe, age-appropriate equipment for indoor and outdoor play.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-10. Education and training.

1. **Public education.** Any primary or secondary program offered by a facility must be in compliance with standards established by the department of public instruction. The center shall ensure that residents comply with all state school attendance laws.
2. **Religious education.** The center shall make a reasonable effort to make opportunities available for residents to attend religious ceremonies within the area in which the facility is located, giving reasonable consideration to requests by the resident or a person with lawful authority to act on behalf of the resident. The center shall respect the religious beliefs of the resident and the resident's family.
3. **Discipline.** Discipline must be constructive or educational in nature. Discipline may include diversion, separation from a problem situation, discussion with the resident about the situation, praise for appropriate behavior, and safety holds. A center shall adopt and implement written policies for discipline and behavior management consistent with the following:
 - a. Only adult staff members of the center may prescribe, administer, or supervise the discipline of residents. Authority to discipline may not be delegated to residents.
 - b. A resident may not be slapped, punched, spanked, shaken, pinched, roughly handled, struck with an object, or otherwise receive any inappropriate physical treatment.

- c. Verbal abuse and derogatory actions or remarks about the resident, the resident's family, religion, or cultural background may not be used or permitted.
- d. A resident may not be locked in any room or other enclosure unless seclusion is indicated and the procedures under section 75-03-17-06 are followed.
- e. The center shall request that a person with lawful authority to act on behalf of the resident to assist the center in the development of effective means of discipline.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-11. Residents as employees prohibited. Residents may not be solely responsible for any major phase of the center's operation or maintenance including cooking, laundering, housekeeping, farming, or repairing.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-12. Discharge.

- 1. The decision that a resident no longer needs or cannot benefit from the center's treatment must be made by a discharge committee comprised of three staff or consultants involved in the resident's care and treatment and a person with lawful authority to act on behalf of the resident.
- 2. The center shall assist the resident and the person with lawful authority to act on behalf of the resident in preparing for termination of placement in the center, whether the move is to return the resident home, to a foster family, adoptive family, an institution, or to the home of relatives.
- 3. Prior to discharge, the center shall complete a discharge plan. The plan must include:
 - a. A progress report including a psychiatric update and recommendations;
 - b. The reason for discharge;
 - c. An assessment of the resident's and the family's needs and recommended services;

- d. A statement that the discharge plan recommendations have been reviewed with the resident and a person with lawful authority to act on behalf of the resident;
- e. The potential for readmission; and
- f. The name and title of the individual to whom the resident was discharged.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-13. Responsibility for notification of runaway residents.

When a center confirms that a resident's whereabouts are unknown, the center shall immediately notify law enforcement officials and the individual who may lawfully act on behalf of the resident. The resident's return must be reported immediately to law enforcement and the individual who may lawfully act on behalf of the resident.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-14. Employee health qualifications.

- 1. All personnel, including volunteers and interns, must be in good health and physically and mentally capable of performing assigned tasks.
- 2. Except as specified in subsection 4, the good physical health of each employee must be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or thirty days after employment. The individual performing the screening shall sign a report indicating the presence of any health condition that would create a hazard to residents of the center or other staff members.
- 3. Unless effective measures are taken to prevent transmission, an employee suffering from a serious communicable disease shall be isolated from other employees and residents of the center who have not been infected.
- 4. Information obtained concerning the medical condition or history of an employee must be collected and maintained on forms and in medical files separate from other forms and files and must be treated as a confidential medical record.

5. The center shall develop a policy regarding health requirements for volunteers, interns, and student placements that addresses tuberculin testing.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-04, 25-03.2-07

75-03-17-15. Staff to resident ratio.

1. The ratio of staff to residents during waking hours is dependent on the needs of the residents and the requirements of the individualized treatment plans, but may not be less than two staff members. At night other staff must be available to be summoned in an emergency.
2. The ratio of professional staff to residents is dependent on the needs of the residents.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-16. Personnel policies.

. The center shall have clearly written personnel policies. The policies must be made available to each employee and must include:

- a. A staff training and development plan;
- b. Procedures for reporting suspected child abuse and neglect;
- c. Procedures for staff evaluation, disciplinary actions, and termination;
- d. A prohibition of sexual contact between staff and residents;
- e. Procedures for employee grievances;
- f. Both oral and written instructions regarding employee responsibility for preserving confidentiality;
- g. Evaluation procedures that include a written evaluation following the probationary period for new staff and at least annually thereafter; and
- h. A plan for review of the personnel policies and practices with staff participation at least once every three years, or more often if necessary.

2. A center operator may not be, and a center may not employ, in any capacity that involves or permits contact between the employee and any resident of the center, any individual who has been found guilty of, pled guilty to, or pled no contest to:
 - a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; 12.1-17, assaults - threats - coercion; or 12.1-18, kidnapping; North Dakota Century Code sections 12.1-20-03, gross sexual imposition; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; North Dakota Century Code chapter 12.1-27.2, sexual performances by children; or North Dakota Century Code sections 12.1-29-01, promoting - prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or
 - b. An offense, other than an offense identified in subdivision a, if the department, in the case of the center operator, or the center, in the case of an employee, determines that the individual has not been sufficiently rehabilitated.
3. A center shall establish written policies, and engage in practices that conform to those policies, to effectively implement subsection 2.
4. For purposes of subdivision b of subsection 2, an offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.
5. The department has determined that the offenses enumerated in subdivision a of subsection 2 have a direct bearing on the individual's ability to serve the public as a center operator or employee.
6. Interns, volunteers, and student placement workers are subject to the provisions of this section.
7. A prospective employee shall consent to background checks in criminal conviction records and child abuse or neglect records. Where a position involves transporting residents by motor vehicle, the prospective employee shall authorize release of a complete motor vehicle operator's license background report.

8. If a prospective employee has previously been employed by one or more group homes, residential child care facilities, or centers, the center shall request a reference from all previous group home, residential child care facility, and center employers regarding the existence of any determination or incident of reported child abuse or neglect in which the prospective employee is the perpetrator subject.
9. The department may perform a background check for reported suspected child abuse or neglect each year on each center employee.
10. A center shall maintain an individual personnel file on each employee. The personnel file must include:
 - a. The application for employment, including a record of previous employment, and the applicant's answer to the question, "Have you been convicted of a crime?";
 - b. Annual performance evaluations;
 - c. Annual staff development and training records, including first-aid training, cardiopulmonary resuscitation training, universal infectious disease training, and crises prevention and intervention training records. "Record" means documentation, including with respect to development or training presentations the:
 - (1) Name of presenter;
 - (2) Date of presentation;
 - (3) Length of presentation; and
 - (4) Topic of presentation;
 - d. Results of background checks for criminal conviction records, motor vehicle violations, and child abuse or neglect records;
 - e. Any other evaluation or background check deemed necessary by the administrator of the center; and
 - f. Documentation of the existence of any license or qualification for position or the tasks assigned to the employee.
11. A center shall maintain an individual personnel file on each volunteer, student, and intern. The personnel file must include:
 - a. Personal identification information; and
 - b. Results of background checks for criminal conviction records, motor vehicle violations, and child abuse or neglect records.

12. The center shall adopt a policy regarding the retention of personnel records.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-16.1. Child abuse and neglect reporting.

1. All center employees, interns, volunteers, and student placement workers shall certify having read the law requiring the reporting of suspected child abuse or neglect, North Dakota Century Code chapter 50-25.1, and having read and received a copy of the center's written child abuse and neglect reporting procedures.
2. The center shall adopt written procedures requiring an employee to report cases of suspected child abuse and neglect. The procedures must include the following statements:

All employers shall comply with North Dakota Century Code chapter 50-25.1, child abuse and neglect. It is the policy of this center that an employee who knows or reasonably suspects that a child in residence has been, or appears to have been, harmed in health or welfare as a result of abuse, neglect, or sexual molestation shall immediately report this information to the regional human service center in the region in which the center is located.

Failure to report this information in the prescribed manner constitutes grounds for dismissal from employment and referral of the employee to the office of the state's attorney for investigation of possible criminal violation.

3. The center's procedure must address:
 - a. To whom a report is made;
 - b. When a report must be made;
 - c. The contents of the report;
 - d. The responsibility of each individual in the reporting chain;
 - e. The status of an employee who is the alleged perpetrator subject of a report pending assessment, administrative proceeding, or criminal proceeding;
 - f. The discipline of an employee who is the perpetrator subject of a decision that services are required or a determination that

institutional child abuse or neglect is indicated, up to and including termination; and

9. The status and discipline of an employee who fails to report suspected child abuse or neglect.
4. The center shall cooperate fully with the department throughout the course of an investigation of an allegation of child abuse or neglect concerning care furnished to a resident. The center shall, at a minimum, provide the investigators or reviewers with all documents and records available to the center and reasonably relevant to the investigation, and shall permit confidential interviews with both staff and residents.

History: Effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-17. Center staff.

1. The center's staff shall include:
 - a. An executive director who has a bachelor's degree in a behavioral science, or a bachelor's degree in any field and two years of experience in administration;
 - b. A program director who has a master's degree in social work, psychology, or in a related behavioral science with two years of professional experience in the treatment of children and adolescents suffering from mental illnesses or emotional disturbances;
 - c. Resident care staff who are at least twenty-one years of age and have sufficient training and demonstrated skills experience to perform assigned duties;
 - d. The clinical services of a psychologist, psychiatrist, alcohol and drug addiction counselor, nurse, and physician which may be obtained on a consultation basis; and
 - e. Educators, where onsite education is provided.
2. Volunteer services may be used to augment and assist other staff in carrying out program or treatment plans. Volunteers shall receive orientation training regarding the program, staff, and residents of the center, and the functions to be performed.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-18. Safety, buildings, and grounds.

1. **Compliance with fire, sanitation, and zoning standards.** An applicant shall demonstrate compliance with applicable state or local fire, sanitation, and zoning standards.
 - a. Fire. For fire safety, the center shall meet the applicable life safety standards established by the city. If the city has not established life safety standards, the center shall comply with chapter 21 of the Life Safety Code of the national fire protection association, 1985 edition, and amendments thereto.
 - (1) Compliance is shown by submitting the written report of an authorized fire inspector, following an initial or subsequent inspection of a building which states the:
 - (a) Rated occupancy and approval of the building for occupancy; or
 - (b) Existing hazards, and recommendations for correction which, if followed, would result in approval of the building for occupancy.
 - (2) All electrical and heating equipment must be approved by underwriters laboratories, incorporated or another nationally recognized testing laboratory.
 - b. Sanitation. Compliance with sanitation standards is shown by submitting a statement prepared by a licensed environmental health professional or authorized public health officer, following an initial or subsequent annual inspection, that the building's plumbing, sewer disposal, water supply, milk supply, and food storage and handling comply with the applicable rules of the state department of health.
 - c. Zoning. Compliance with zoning requirements is shown by submitting a statement prepared by the appropriate county or municipal official having jurisdiction that the premises are in compliance with local zoning laws and ordinances.
2. **Safety.** Safety requirements of a center must include:
 - a. Prohibition of smoking on the premises;
 - b. Procedures for water safety where swimming facilities are on the grounds;
 - c. A copy of the Red Cross manual on first-aid measures, or a book of its equivalent, and first-aid supplies;

- d. Prohibiting a resident's possession and use of any firearms while at the center;
 - e. Advising residents of emergency and evacuation procedures upon admission and thereafter every two months;
 - f. Training in properly reporting a fire, in extinguishing a fire, and in evacuation from the building in case of fire. Fire drills must be held monthly. Fire extinguishers must be provided and maintained throughout each building in accordance with standards of the state fire marshal; and
9. Telephones with emergency numbers posted by each telephone in all buildings that house residents.
3. **Buildings and grounds.** The center must have sufficient outdoor recreational space, and the center's buildings must meet the following standards:
- a. Bedrooms. Each resident must have: eighty square feet [7.43 square meters] in a single sleeping room, and sixty square feet [5.57 square meters] per individual in a multiple occupancy sleeping room; the resident's own bed, and bed covering in good condition; and a private area to store the resident's personal belongings. A center may not permit: more than two residents in each sleeping room; residents to sleep in basements or attics; nonambulatory residents to sleep above the first floor; and a resident six years of age or older to share a bedroom with a resident of the opposite sex.
 - b. Bathrooms. The center's bathroom facilities must have an adequate supply of hot and cold water; be maintained in a sanitary condition; have separate toilet and bath facilities for male and female residents, and employees; and have one bathroom that contains a toilet, washbasin, and tub or shower with hot and cold water for every four residents.
 - c. Dining and living rooms must have suitably equipped furnishings designed for use by residents within the age range of residents served by the center.
 - d. The center shall provide sufficient space for indoor quiet play and active group play.
 - e. Adequate heating, lighting, and ventilation must be provided.
 - f. Staff quarters must be separate from those of residents, although near enough to assure proper supervision of residents.

9. A center shall provide a quiet area for studying.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-19. Interstate compact on the placement of children.

1. The center shall comply with the interstate compact on the placement of children and the interstate compact for juveniles.
2. All placements from any state which has not adopted the interstate compact on the placement of children or the interstate compact on juveniles must comply with all North Dakota laws and rules prior to the arrival of a child at a center.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-06

75-03-17-20. Rights and obligations of the applicant.

1. **Right to apply for license.** An applicant has the right to apply to receive a license to operate a center under this chapter.
2. **Entry and inspection.** The applicant shall allow authorized representatives of the department to enter any of the applicant's buildings or facilities in order to determine the extent to which the applicant is in compliance with the rules of the department, to verify information submitted with an application for licensure or license renewal, and to investigate complaints. Inspections must be scheduled for the mutual convenience of the department and the center unless the effectiveness of the inspection would be substantially diminished by prearrangement.
3. **Access to records.** The applicant shall allow duly authorized representatives of the department to inspect the records of the applicant, to facilitate verification of the information submitted with an application for licensure, and to determine the extent to which the applicant is in compliance with the rules of the department.
4. **Denial of access to facilities and records.** Any applicant or licensee which denies access, by the authorized representative of the department, to a facility or records for the purpose of determining the applicant's or licensee's state of compliance with the rules of the department shall have its license revoked or application denied.

5. **License refusal or revocation.** Failure to comply with any of the standards of this chapter or other state law or regulation is cause for refusal or revocation of a license.
6. **Appeal.** An applicant may appeal a license denial in accordance with North Dakota Century Code chapter 28-32 and North Dakota Administrative Code chapter 75-01-03.
7. **Deemed status.** The department recognizes "deemed status" for those providers who have accreditation of nationally recognized bodies who review and certify providers of residential treatment services for children. When applying for licensure or licensure renewal, proof of accreditation or "deemed status" in the form of the accreditation agency's most recent review and certification must be submitted to the department. "Deemed status" means status conferred on a program accredited by a national accreditation body based on standards that exceed the standards set forth in these licensure rules.

History: Effective December 1, 1989; amended effective September 1, 1998.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-02, 25-03.2-03, 25-03.2-07, 25-03.2-08, 25-03.2-09